



Transmitted via e-mail

February 24, 2012

Ms. Carol Mortensen, Director  
Department of Resources Recycling and Recovery  
1001 I Street, MS 25A  
Sacramento, CA 95814

Dear Ms. Mortensen:

**Final Report—BP Lubricants USA Inc., California Used Oil Recycling Fee Audit**

The Department of Finance, Office of State Audits and Evaluations (Finance), has completed its audit of BP Lubricants USA, Inc.'s (BP Lubes), Used Oil Recycling Fee Returns for the period July 1, 2009 through June 30, 2010.

The enclosed report is for your information and use. After review of the draft report, BP Lubes agreed with our observations and chose not to provide a written response. We appreciate BP Lubes' willingness to implement corrective actions. This report will be placed on our website.

We appreciate the assistance and cooperation of BP Lubes. If you have any questions regarding this report, please contact Kimberly Tarvin, Manager, or Alma Ramirez, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

David Botelho, CPA  
Chief, Office of State Audits and Evaluations

Enclosure

cc: On following page

cc: Mr. Mark E. Leary, Chief Deputy Director, Department of Resources Recycling and Recovery  
Mr. Tom Estes, Deputy Director, Administration, Finance and Information Technology Services Division, Department of Resources Recycling and Recovery  
Ms. Shirley Willd-Wagner, Chief, Financial Resources Management Branch, Department of Resources Recycling and Recovery  
Ms. Sarah Keck, Manager, Fiscal Services Branch, Department of Resources Recycling and Recovery  
Ms. Audrey Traina, Chief, Office of Audits, Department of Resources Recycling and Recovery  
Mr. Kevin Campbell, Senior Management Auditor, Program Evaluation Office, Department of Resources Recycling and Recovery  
Mr. Brian Kono, Manager, Statewide Disbursements Section, Office of Audits, Department of Resources Recycling and Recovery  
Ms. Donette Dewar, Vice President and General Tax Officer, BP Lubricants USA, Inc.  
Mr. Gavin Atkinson, Regional Manager, Excise Tax, BP Lubricants USA, Inc.  
Mr. John L. Spring, Manager, Excise Tax Compliance, BP Lubricants USA, Inc.  
Mr. Jon Sanders, Manager, Excise Tax Planning/Audit, BP Lubricants USA, Inc.  
Mr. Chris Sacco, Audit Coordinator, Excise Tax Group, BP Lubricants USA, Inc.

AUDIT REPORT

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BP Lubricants USA, Inc.  
Used Oil Recycling Fee Returns  
For the Period July 1, 2009  
through June 30, 2010

Prepared By:  
Office of State Audits and Evaluations  
Department of Finance

**MEMBERS OF THE TEAM**

Kimberly Tarvin, CPA  
Manager

Alma Ramirez, CPA  
Supervisor

Staff  
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Final reports are available on our website at <http://www.dof.ca.gov>

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# BACKGROUND, SCOPE, AND METHODOLOGY

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## BACKGROUND

The Legislature enacted the California Oil Recycling Enhancement Act (Act), sections 48600 through 48691 of the Public Resources Code, to reduce illegal disposal of used oil, recycle and reclaim used oil in order to recover valuable natural resources, and avoid damage to the environment and threats to public health. This Act gives the California Integrated Waste Management Board (Board) the authority to adopt and implement a used oil recycling program, and to collect fees from oil manufacturers at a rate of 16 cents for each gallon of lubricating oil sold, transferred, or used in California. On January 1, 2010 the fees increased from 16 cents to 26 cents per gallon. These fees support the California Used Oil Recycling Fund from which various state and local programs are operated. These programs help promote local efforts to recycle used oil before harmful environmental impacts can occur. On January 1, 2010, the Board was abolished and its duties were transferred to the new Department of Resources Recycling and Recovery (CalRecycle).<sup>1</sup>

BP Lubricants USA, Inc. (BP Lubes) is a wholly-owned subsidiary of BP America, Inc., and has two subsidiaries: Burmah Castrol Holdings and Castrol Industrial North America, Inc. (CINA). BP Lubes' major brands are Castrol and BP Lube. In the automotive lubricants sector, BP Lubes supplies lubricants and other related products and services to intermediate customers such as retailers and workshops. These customers serve end-consumers such as car, truck, and motorcycle owners. In the industrial sector, BP Lubes supplies manufacturers of automobiles, trucks, machinery components, and steel. CINA has oil blending operations in California, and markets to heavy duty industries such as mining.<sup>2</sup>

## SCOPE

The Department of Finance, Office of State Audits and Evaluations, conducted an audit of BP Lubes' Used Oil Recycling Fee Returns (Returns) submitted to CalRecycle. The audit objective was to determine whether BP Lubes accurately reported the industrial and lubricating oil sold, transferred, or used in California, and remitted the proper fees in accordance with the terms and conditions of the Act for the period July 1, 2009 through June 30, 2010.

BP Lubes is responsible for ensuring accurate reporting of the oil recycling fees and oil sales, and ensuring compliance with applicable laws and regulations. The schedules presented in the Results section present information on the activities of BP Lubes only, and do not include any activities of BP America, Inc., or any other subsidiaries.

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<sup>1</sup> Excerpts from [www.CalRecycle.ca.gov](http://www.CalRecycle.ca.gov).

<sup>2</sup> Excerpts from [www.bp.com/annualreport](http://www.bp.com/annualreport) and staff interviews.

## **METHODOLOGY**

To determine whether BP Lubes accurately reported the used oil recycling fees and oil sales in accordance with the terms and conditions of the Act, we performed the following procedures:

- Interviewed key personnel to obtain an understanding of the internal controls related to the recording, classification, reporting of sales transactions, and preparation of the Returns.
- Obtained a limited understanding of the system used to account for oil sales.
- Reviewed BP Lubes' oil sales and fee reports to determine if the oil quantities and fees reported on the Returns were accurate and complete.
- Reviewed the product category list of lubrication and industrial oil to determine whether all products were correctly classified and reported.
- Determined whether the quantities on reports for industrial and lubrication oil were supported by sales orders, invoices, and other relevant documents.
- Determined whether the correct conversion factor was used to convert non-volume measurements.
- Determined export sales delivery address was to a location outside California.

The results of the audit are based on our review of documentation, other information made available to us, and interviews with BP Lubes' staff. The audit was conducted from June 2011 through January 2012.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BP Lubricants USA, Inc. did not accurately report the industrial and lubricating oil sales in compliance with applicable laws and regulations. See Findings 1 and 2 below. The reported sales and fees for industrial and lubricating oil are presented in Tables 1 through 3.

**Table 1: Schedule of Industrial Oil Sales**

BP Lubricants USA, Inc. Used Oil Recycling Fee Returns Industrial Oil <sup>1</sup> For the Period July 1, 2009 through June 30, 2010			
Categories	Reported Sales (Gallons)	Audited Sales (Gallons)	Adjustment
Total Industrial Oil Sold	0	3,892,229	3,892,229
Industrial Oil Exported or Sold for Export	0	352,827	352,827

**Table 2: Schedule of Lubricating Oil Sales**

BP Lubricants USA, Inc. Used Oil Recycling Fee Returns Lubricating Oil For the Period July 1, 2009 through June 30, 2010			
Categories	Reported Sales (Gallons)	Audited Sales (Gallons)	Adjustment
Total Lubricating Oil Sold	14,192,040	21,071,049	6,879,009
Less Exemptions:			
Lubricating Oil Purchased-Fee paid	2,307,711	1,450,706	(857,005)
Lubricating Oil Exported or Sold for Export	0	7,624,042	7,624,042
Other Exemptions	0	94,426	94,426
Total Exemptions	2,307,711	9,169,174	6,861,463
Total Fee Assessable Lubricating Oil	11,884,329	11,901,875	17,546

**Table 3: Schedule of Lubricating Oil Fees**

	Reported Fees	Audited Fees	Fees Due
Lubricating Oil Fees:			
July through December 2009 (16 cents per gallon)	\$ 931,807	\$ 933,083	\$1,276
January through June 2010 (26 cents per gallon)	1,575,740	1,578,254	2,514
Total Lubricating Oil Fees	\$2,507,547	\$2,511,337	\$3,790

<sup>1</sup> No fees are assessed on industrial oil.

### **Finding 1: Inaccurate Reporting of Lubricating and Industrial Oil Sales**

BP Lubes calculated the net lubricating oil sales subject to the fee by converting the general ledger California Recycling Tax Account dollar balances into gallons using the fee rate. As a result, the Return did not include all the required information and underreported oil sales and exempt transactions as follows:

- Industrial Oil—3.9 million gallons in oil sales and 350 thousand gallons of exports.
- Lubricating Oil—6.9 million gallons of oil sold and related exempt transactions.

California Public Resources Code, section 48761, states that oil manufacturers who sell lubricating or industrial oil in the state shall report to CalRecycle the amount of lubricating or industrial oil sold each month. Missing and inaccurate reporting could result in over or underpaid fees. A similar finding was previously reported in a September 2007 Department of Finance audit.

**Recommendation:** Ensure Returns are prepared in accordance with the California Public Resources Code.

### **Finding 2: Unsupported Exempt Sales**

BP Lubes did not obtain exemption certificates to support 17,645 gallons of exempt sales prior to delivery of the oil to the purchaser resulting in additional lubricating oil fees of \$3,790. A similar finding was previously reported in a September 2007 Department of Finance audit.

California Code of Regulations, Title 14, section 18626, states that an exemption certificate which is not issued in a timely manner is not retroactive, and will not relieve the seller of the responsibility for the fee. To be considered timely, an exemption certificate shall be issued as follows:

- Before the seller bills the purchaser for the lubricating oil.
- Within seller's normal billing and payment cycle.
- Prior to delivery of the subject oil to the purchaser.

**Recommendation:** Timely obtain and retain exemption certificates to support exempted sales.